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### **REMARKS**

#### **1. POSTURE OF THE CASE**

Claims 1 through 28 were originally presented in the application. In response to a first Office action (the "First Office Action"), dated November 13, 2003, which rejected all claims on the basis of prior art and on the grounds that they were directed to non-statutory matter and indefinite. Appellant filed a reply ("Reply A") on February 13, 2004, amending and canceling claims.

The indefiniteness rejections were withdrawn by the Examiner based on the changes made by Appellant to the claims in Reply A.

In an Office Action (the "Final Office Action"), dated May 5, 2004, the indefiniteness rejections were withdrawn, but all pending claims in the present case were finally rejected on the basis of prior art. Also, the Final Office Action maintained the rejections on grounds of non-statutory matter. Appellant appealed and timely filed an Appeal Brief, and the present Office action (the "Third Office Action") followed, which relies upon newly asserted art.

#### **2. ACTION BY APPLICANT IN THE PRESENT REPLY**

Amendments are herein submitted to claims 1, 6, 10, 21, 22 and 24. Claims 15, 16, 18 and 19 are herein canceled. Claims 3, 7, 12, 17 and 26-28 were previously canceled.

#### **3. STATUS OF CLAIMS**

Claims 1, 2, 4-6, 8-11, 13-14, and 21-25 remain pending in the application. All pending claims stand rejected, under 35 U.S.C. 101 on grounds the claims are directed to non-statutory matter. Also, all pending claims stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over "A Guide to the Project Management Body of Knowledge" by William R. Duncan ("Duncan") in view U.S. Patent 6,381,610 ("Gundewar") and U.S. Patent 5,890,130 ("Cox").

#### **4. EXPLANATION OF APPLICANT'S POSITION AND ACTIONS HEREIN**

##### **A. Rejections under 35 U.S.C. 101**

In order to cooperate with the Office in this matter and to more certainly insure that the Examiner's rejections have been fully addressed, Applicant herein amends claims 1, 6, 10, 21, 22 and 24. Specifically, since the term "information systems" relies somewhat upon an interpretation for its limitation in the claims, Applicant herein submits amendments in order to i) explicitly state that the claimed information systems feature of the claims includes computer

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systems or telecommunications equipment or a combination thereof, including both hardware and software, ii) more explicitly point out how certain aspects of the claims relate to processes and data in the information technology, and iii) point out that the software and data are embodied in computer-readable media.

No new matter is added in the amendments to claims, since the specification as originally submitted provides support. The processes, inputs, outputs and links referred to in the specification are implemented in information technology. See, e.g., page 1, line 27-page 2, line 2 ("A further example of a program is providing technology . . . The program involves building and operating the Olympic Games technology . . . Component projects can, for example, relate to building and operating *information technology* infrastructure . . . and defining the *processes* for the collection and dissemination of results information . . .") (emphasis added).<sup>1</sup> "Information systems" is a well-understood term used in the specification as a convenient way of referring to systems including computer systems or telecommunications equipment or a combination thereof, including both hardware and software. See, e.g., [www.foldoc.org](http://www.foldoc.org) definition for "Information Technology" ("Applied computer systems - both hardware and software, and often including networking and telecommunications, usually in the context of a business or other enterprise."). It is also well known that processes implemented in computer systems include software and data embodied in computer-readable media.

Also, the claims are amended to recite a practical application, *building and operating infrastructure for events*, such as sporting events. For support, see the present specification, e.g., page 1, line 27-page 2, line 2 ("A further example of a program is providing technology . . . The program involves building and operating the Olympic Games technology . . . Component projects can, for example, relate to building and operating *information technology infrastructure* . . ."). Such infrastructure includes, for example, computing and telecommunication equipment.

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<sup>1</sup> See also page 2, line 30-page 3, line 1 ("An example of a *process methodology* is the Capability Maturity Model (CMM) . . . The focus of CMM is the build phase of *software engineering* projects.") (emphasis added); page 12, line 20-page 13, line 2 ("To place the size of the program . . . in perspective . . . In terms of computing and telecommunications resources, 80 IBM MQ series servers and 3 IBM S/390 mainframes are deployed. Additionally, there will be 17,000 desktop and portable computing devices in use, as well as numerous other peripheral devices such as printers, validators and displays. An estimated 13 million lines of program code was written to implement all the necessary applications."); page 38, lines 1 and 2 ("Once the . . . framework has been established, it is traversed *to execute the program*.") (emphasis added).

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Present application, page 12, line 20-page 13, line 2 ("To place the size of the program . . . in perspective . . . In terms of computing and telecommunications resources, 80 IBM MQ series servers and 3 IBM S/390 mainframes are deployed. Additionally, there will be 17,000 desktop and portable computing devices in use, as well as numerous other peripheral devices such as printers, validators and displays. An estimated 13 million lines of program code was written to implement all the necessary applications.").

In this same regard, the claims also are amended to recite that the data representing the linked process inputs and outputs *provides a schedule of the processes for building and operating infrastructure for the event*. For support, see the present specification, e.g., page 12, lines 11-14; page 38, lines 1-14. Also, the claims are amended to recite that the sets of linked processes are assigned to teams and designated as process streams, *so that the teams are associated with the schedule of the build and operate processes*, and that planning milestones are designated for the outputs having links spanning across two or more of the process streams, *so that dependencies among teams having an impact on the schedule are identified*. For support, see the present specification, page 38, line 1-page 39, line 13.

The claims stand rejected on grounds that the claimed invention, as a whole, is not within the technological arts and that the claims recite only an abstract idea. See, for example, First Office Action, page 17 and Third Office Action, page 3.

1. Claims 1, 2, 4-6, 8-9

Applicant contends that a machine having an identified structure in terms of its hardware and software combination is a statutory machine, is not a mere abstract idea, and is within the technological arts. See MPEP 2106 IV B 2 (a), citing *In re Lowry*, 32 F3d 1579, 1583 (Fed. Cir. 1994) ("If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product."). The amended claims 1 and 6 for the present invention now explicitly state that the invention is claimed as a machine, i.e., system, that includes information technology, including computer systems or telecommunications equipment.

Further, the computer systems or telecommunications equipment includes software embodied in computer-readable media and includes hardware. Note also that the data structures as well as the software of the present invention are now claimed as embodied in

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computer-readable media. For example, the claimed *information technology includes data embodied in computer-readable media* representing i) inputs and outputs for ones of said processes and ii) a plurality of links associated with respective ones of the inputs and outputs, wherein the links provide connections linking outputs from ones of said build, operate and management processes to inputs.” Claim 1. (Claim 6 has similar language.) Also, the claimed system includes a link having exit conditions *embodied in computer-readable media of the information technology* and associated with the link. Claim 1. (Claim 6 has similar language.) Further, the claimed system includes selected sets of sequentially-linked ones of the processes that are assigned to selected project teams and the sets are designated as respective process streams *embodied in computer-readable media of the information technology data*. Claim 1. (Claim 6 has similar language.) Still further, the claimed system includes planning milestones *embodied in computer-readable media of the information technology data* that are designated for ones of the outputs having links spanning across two or more of the process streams. Claim 1. (Claim 6 has similar language.) Thus, the data and software process of the invention so that they are more clearly capable of causing functional change in the computer. MPEP 2106 IV B 1 (a) (citing Warmerdam, 33 F.3d at 1361).

If a claim defines a useful machine by identifying the physical structure of the machine in terms of its hardware and software combination, it defines a statutory product. MPEP 2106 IV B 2 (a) (citing Lowry, 32 F.3d at 1583, 32 USPQ2d at 1034-35; Warmerdam, 33 F.3d at 1361-62, 31 USPQ2d at 1760). From the above discussion it should be clear that claims 1 and 6, as amended, set out tangible, useful machines having a specific physical structure in terms of a combination of computer systems or telecommunications equipment hardware and particularly pointed out processes and data structures embodied in computer-readable media. Most notably, the claimed data structures for the processes of the system, which are embodied in physical, computer-readable media, have very specific structures, including specific links that have sequences and are associated with inputs and outputs.

Further, the machines of claims 1 and 6, with their included software and data embodied in computer-readable media of the information technology data, have a practical application in the technological arts. A claim limited to a machine having a practical application in the technological arts is statutory. MPEP 2106 IV B 2 (a) (citing Alappat, 33 F.3d at 1544, 31

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USPQ2d at 1557). Claims 1 and 6 have been amended herein to more particularly point out that they encompass a practical application, *building and operating infrastructure for events*, such as sporting events.

Thus, claims 1 and 6 now fall within statutory bounds on two independent grounds. First, each claim defines a useful machine by identifying the physical structure of the machine in terms of its hardware and software combination. Second, each claim is limited to a machine having a practical application in the technological arts. For both of these reasons, Applicant respectfully contends the rejections to claims 1, 2, 4-6, 8-9 under 35 U.S.C. 101 are overcome by the amendments to claims independent claims 1 and 6.

## 2. Claims 10-11, 13-14, and 21-25

Regarding computer-related process claims 10 and 21, Applicant contends the rejections to claims 10-11, 13-14, and 21-25 under 35 U.S.C. 101 are overcome by amendments herein to independent claims 10 and 21, cancellation of independent claim 15 and amendment of claims 22 and 24 to make them dependent. Specifically, Applicant contends that the invention recited in each of amended claims 10 and 21 is a computer-related process that is limited to a practical application in the technological arts. Specifically, amended claim 10 now explicitly point out and limit the invention to the practical application, *building and operating infrastructure for events*, as in claims 1 and 6. Amended claim 21 has similar language. Applicant contends the claims are statutory also because they are limited to a practical application in the technological arts. MPEP 2106 IV B 2 (b) (explaining that for subject matter involving an abstract idea to be statutory, the claimed process must be limited to a practical application of the abstract idea in the technological arts, citing *Alappat*, 33 F.3d at 1543). In addition, like amended claims 1 and 6, amended claims 10 and 21 now also state that the data and software referred to therein are embodied in computer-readable media.

## 3. Request for guidance

Applicant requests that if Examiner does not agree with Applicant's position, some *specific analysis* be provided applying the law to these substantial amendments and remarks, so that Applicant may fully understand the Examiner's position and cooperatively respond. For example, Applicant requests that the basis for any possible conclusion that Examiner might again reach that it is claiming only an abstract idea to claim what is set out in the present claims. That

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is, for example, how could it be reciting a mere abstract idea to recite a system for building and operating infrastructure for an event that includes information technology, i.e., computer and telecommunications equipment, including hardware and software and data embodied in computer-readable media, having data representing inputs and outputs for processes and links for the inputs and outputs providing connections linking outputs from one process to the other? Applicant further requests that if the Examiner concludes again that the amended claims do not encompass inventions within the technological arts, a specific basis should be explained as to why each such claimed invention neither applies, involves, uses, nor advances the technological arts.

**B. Rejections under 35 U.S.C. 103(a)**

All pending claims stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Duncan in view Gundewar and Cox.

Applicant wishes to thank the Examiner for stating specifically what in the cited teachings of Cox the Examiner relates to claimed features of the present application. The Office action cites teachings by Cox, at column 3, lines 47-66, column 6, lines 34-37 and 41-46, and FIG. 5, about a flowchart with vertical and horizontal arrows representing communications links between departments. The Office action contends these teachings are equivalent to what is claimed in the present case regarding linking ones of the processes assigned to selected project teams, designating sets [of the assigned processes] as process streams, and spanning across two or more process streams. Further, the Office action contends these teachings, thus interpreted, recite aspects of claims 1, 6, 10 and 21 as follows: "selected sets of sequentially-linked ones of the processes are assigned to selected project teams and the sets are designated as respective process streams," and "outputs having links spanning across two or more of the process streams."

Cox teaches that vertical arrows link horizontal line segments. Cox, column 3, lines 47-50 and FIG. 1. Cox teaches that absence of a horizontal line segment represents a department *not* engaged in a conversation or relationship with another department and a solid or broken line indicates the department that the line represents *is* engaged in a conversation or relationship with another department, with the solid line indicating that the department represented by the line segment *is* obligated to perform an action or initiate a communication and the broken line indicating that the department represented is *not* obligated. Cox, column 3, line 50 - column 4,

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line 12. Cox teaches that a vertical arrow connected to such a line segment indicates an action or communication in the context of its associated conversation or relationship. Cox, column 3, lines 53-60.

Applicant respectfully contends that i) a department having a conversation or relationship with another department, and having obligations or not having obligations to the other department, as represented by a horizontal line segment in Cox, and ii) actions or communications connected to that conversation or relationship, as represented by vertical arrows in Cox, does not teach or suggest a set of sequentially-linked processes assigned to a project team, as recited in the claims of the present application. Also, the Office action apparently equates elongated vertical arrows between sales and production in FIG. 5 to links spanning two or more processes, as recited in the claims and shown in FIG. 8, for example, of the present application. Applicant respectfully disagrees. Since the arrows shown by Cox are spanning horizontal line segments representing a department having a conversation or relationship of with another department, with and without obligations, Applicant contends the arrows do not teach or suggest links spanning two or more "process streams," particularly since process streams are sets of sequentially-linked processes assigned to selected project teams, as claimed.

Further, Applicant herein amends the independent claims to particularly and clearly point out additional patentable distinctions of the present invention not taught or suggested by Cox, alone or in combination with or any of the cited art. Specifically, claims 1, 6, 10 and 21 are herein amended to recite that the invention includes assigning risk factors embodied in computer-readable media of the information technology data to the processes, and generating, by the system, a list of the processes for each team's process stream, to identify schedule risk, in order to identify schedule risk. Neither Cox alone, nor Cox in combination with any of the cited art, teaches or suggests this.

No new matter is added in these amendments to claims, since the specification as originally submitted provides support. See specification, page 26, lines 4-14 and FIG. 16A and 16B (regarding listing processes owned by a team); page 26, line 19 - page 30, line 2 (regarding assigning risk factors to the processes).

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**REQUESTED ACTION**

Applicant contends that the invention as claimed in accordance with amendments submitted herein is patentably distinct, and hereby requests that Examiner grant allowance and prompt passage of the application to issuance.

Respectfully submitted,



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